

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

JOHNNY EAGLE, #525192,

Case No. 08-11333

Plaintiff,

DISTRICT JUDGE  
ARTHUR J. TARNOW

v.

MAGISTRATE JUDGE  
DONALD A. SCHEER

S. MARRIOTT, *et al.*,

Defendants.

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**ORDER ADOPTING THE REPORT AND RECOMMENDATION [25],  
AND  
GRANTING PLAINTIFF'S MOTION TO AMEND COMPLAINT [27]**

Before the Court is the Magistrate Judge's Report and Recommendation [27] filed January 30, 2009, on Defendants' Motion to Dismiss [18]. The Report and Recommendation recommended that, because Plaintiff had named Defendants only in their official capacities, the suit should be dismissed on the basis of Eleventh Amendment immunity.

On February 12, 2009, Plaintiff filed a Motion to Amend the Complaint [27], seeking to name Defendants in their both their official and their personal capacities. Defendants filed a Response [28].

The Court has reviewed the relevant pleadings, and being fully advised in the premises,

**IT IS HEREBY ORDERED** that the Report and Recommendation [25] is **ADOPTED**, and insofar as Defendants have been named in their official capacities, they are dismissed from the action.

**IT IS FURTHER ORDERED** that Plaintiff's Motion to Amend [27] is **GRANTED IN PART**, and the Complaint is amended so as to name Defendants in their individual capacities, only.

The action shall remain open, and the Court hereby **REMANDS** the case to the Magistrate Judge for further proceedings.

**SO ORDERED.**

S/ARTHUR J. TARNOW

Arthur J. Tarnow

United States District Judge

Dated: March 25, 2009

I hereby certify that a copy of the foregoing document was served upon counsel of record on March 25, 2009, by electronic and/or ordinary mail.

S/FELICIA M. MOSES

Case Manager